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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,218	01/12/2004	Jeffrey Berichon	78297/00001	1889
23380 7590 08/06/2009 TUCKER ELLIS & WEST LLP 1150 HUNTINGTON BUILDING 925 EUCLID AVENUE CLEVELAND, OH 44115-1414				
EXAMINER				
ROJAS, HAJIME S				
ART UNIT		PAPER NUMBER		
3627				
NOTIFICATION DATE		DELIVERY MODE		
08/06/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@tuckerellis.com

Office Action Summary

Application No.

10/755,218

Applicant(s)

BERICHON ET AL.

Examiner

HAJIME ROJAS

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-40 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

This communication is in response to application filed on January 12, 2004.

Claims 1-40 are pending and presented for examination on the merits.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because most all the drawings contain hand-written annotations and most figures are not legible. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waddington et al. (US 2002/0010661, hereinafter Waddington) in view of Franco (US 7,257,552).

As per claim 11, Waddington discloses a method for managing items in a supply chain comprising: capturing item identification information associated with a plurality of items associated with unique sources and destinations into a computer inclusive of a processor and data storage, each of the plurality of items being identified for supply chain management ([paragraph][0085], wherein information about an item which is part of a distribution chain is scanned using a delivery device. See also [0079], several distribution centers and Figure 1, plurality of retail stores and [0097], cross-dock); receiving first user input corresponding to a user-selected consolidation mode relative to consolidation and routing of transport of a set of items associated with the user ([0089], user selected pallet mode relative to consolidation, multiple containers consolidated in a pallet and routing); commencing distribution of each item of the set of items to its associated destination in accordance with the routing specified by the user corresponding thereto ([0085], operations performed for the delivery of items in accordance with routing specified, the routing being specified by being chosen. See also [0011]).

Waddington does not explicitly disclose in connection with an associated pooled transport distribution system; receiving second user input corresponding to each of the plurality of sources, each received second user input being representative of a selection of at least one of a plurality of capturing modes, wherein each capturing mode is adapted for creating associated information by associating the captured item identification information with supply chain information in accordance with one of the

plurality of sources corresponding thereto; communicating the associated information to the data storage for storage in accordance with one of the plurality of sources corresponding thereto.

However, Waddington discloses a distribution system (Figure 1) and Franco teaches an aggregated transport distribution system for gathering items from a plurality of sources consolidating the items at an aggregated site and delivering the items to different destinations ([column:line][13:8-20]. See also figures 20 and 22A and Figure 3).

Waddington further discloses in paragraph [0088], wherein user is able to input his selection based on the displayed options and [0089], wherein corresponding plurality of distribution centers are identified. See also Waddington [0085], wherein the information gathered is uploaded to the distribution center computer system and [0079], several distribution centers. Franco further teaches identifying a plurality of merchants, sources, and associating these with their respective items which will be delivered to the Order Aggregation Site and eventually to their final destination (Figure 22A). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention as disclosed by Waddington and replace the distribution system as disclosed by Waddington with an order aggregation system and the distribution centers with merchants as taught by Franco in order to expand business opportunities.

As per claim 12, Waddington further discloses wherein the receiving the second user input includes receiving second user input, each second user input being representative of a selection of at least one of a plurality of capturing modes including at least one of a

consolidation stage, a grid area stage, a loading vehicle stage, a delivery stage and a pick up stage ([0088], "Pre Load", "Route Select", "Manifest". See also Figure 4).

As per claim 13, Waddington further discloses wherein the consolidation stage mode is adapted for associating the captured item information with supply chain information comprising at least one of a pallet identification with which the item has been associated, a time of capture information, a date of capture information or item classification information ([0089], "Route Select", pallet mode. See also [0090], date and time of deliveries. See also [0096], wherein containers are classified as full or half).

As per claim 14, Waddington further discloses wherein the grid area stage mode is adapted for associating the captured item information with supply chain information comprising at least one of a grid identification with which the item has been associated, a time of capture information or a date of capture information ([0081] and [0083], wherein a barcode associated with a location in a warehouse is scanned and forms part of the item unique identifier which is again scanned on "PreLoad" [0087]. See also [0090], date and time of deliveries).

As per claim 15, Waddington further discloses wherein the loading vehicle stage mode is adapted for associating the captured item information with supply chain information comprising at least one of a vehicle identification, wherein the vehicle has been identified for transporting the item, a time of capture information, a date of capture

information, and a delivery destination ([0089], "Route Select", Truck number. See also [0090], date and time of deliveries and [0091], delivery stops).

As per claim 16, Waddington further discloses wherein the delivery stage mode is adapted for associating the captured item information with supply chain information comprising at least one of a time of capture information, a date of capture information, item damage information or item refusal information ([0099], "Manifest", items flagged as refused. See also Figure 53, wherein the user can choose "Unsalable Rcvd Damaged").

As per claim 17, Waddington further discloses wherein the pick up stage mode is adapted for associating the captured item information with supply chain information comprising at least one of a time of capture information, a date of capture information, an item recipient identity, item damage information or item refusal information ([0099], "Manifest" includes date and time, items flagged as refused and [0110], receiving agent's name. See also Figure 53, wherein the user can choose "Unsalable Rcvd Damaged").

As per claim 18, Waddington further discloses wherein the communicating means comprises at least one of a physical connection to the data storage device, a wireless connection to the data storage device, a Bluetooth™ connection to the data storage

device or a 802.11 connection to the storage device ([0086], delivery device wirelessly communicates with distribution center computer).

As per claim 19, Waddington further discloses wherein the data storage device is adapted to be accessed through an Internet connection ([0079], orders to distribution center computer received through internet. See also [0119], distribution center computer accessed through internet).

As per claim 20, Waddington further discloses wherein the data storage device comprises means adapted for formatting the associated information in accordance with an input user request ([0079], orders received by mail are entered into the distribution center computer. See also [0086], wherein information about deliveries is uploaded to the distribution center computer).

As per claims 1-10 and 21-40, claims 1-10 and 21-40 recite substantially similar limitations to claim 11-20 and are therefore rejected using the same art and rational set forth above.

Please Note: A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Response to Arguments

Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection. However, examiner notes that in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "delivery directions received from a user", "the consolidation mode is concerned with grouping goods or items prior to delivery", "consolidation mode relates to the building of the pallets at the pool distributor's terminal and not distinguishing between a pallet and a box in the scanner at or during delivery such as on the delivery route") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAJIME ROJAS whose telephone number is (571)270-5491. The examiner can normally be reached on EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HAJIME ROJAS/

Examiner, Art Unit 3627

/Ramsey Refai/
Primary Examiner, Art Unit 3627